

REMARKS

Applicants are amending the specification of the above-identified reissue application to delete reliance under 35 USC 120 on Application No. 09/766,587, filed January 23, 2001, this reliance being newly added in the above-identified reissue application, and to correct the patent number of the U.S. patent issuing from Application No. 09/461,432, filed December 16, 1999. Thus, as presently amended, the continuity data for the above-identified reissue application is the same as in the application issuing as U.S. Patent No. 6,332,280.

The comment by the Examiner of the need to file a Petition to accept an unintentionally delayed benefit claim under 37 CFR 1.78(a)(3), set forth in the second full paragraph on page 2 of the Office Action mailed March 19, 2007, is moot, in light of deletion in the above-identified reissue application of reliance under 35 USC 120 on Application No. 09/766,587.

Applicants respectfully traverse the contention by the Examiner that the Declaration is defective, with requirement of a new oath or declaration; and of the rejection of claims 1, 2 and 4-13 as being based upon a defective reissue Declaration under 35 USC 251. Particularly as the above-identified reissue application relies upon the same prior applications under 35 USC 120, that were relied upon in the application issuing as U.S. Patent No. 6,332,280, it is respectfully submitted that the declaration duty of disclosure language is proper in the original Reissue Declaration filed in the above-identified reissue application.

Thus, attention is respectfully directed to 37 CFR 1.63(b)(3), which requires that the person making the Declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in 37 CFR 1.56. It is respectfully submitted that the Reissue Declaration submitted with

the Response to Notice to File Missing Parts of Reissue Application filed September 24, 2002, in the above-identified reissue application, includes the proper acknowledge of duty to disclose required under 37 CFR 1.63.

The contention by the Examiner in the second paragraph on page 2 of the Office Action mailed March 19, 2007, that the Declaration duty of disclosure language does not comply with 37 CFR 1.63 because "it" currently reads as quoted in lines 3-9 in the second paragraph on page 2 of the Office Action mailed March 19, 2007, is not understood. Again, attention is respectfully directed to 37 CFR 1.63(b)(3), and it is respectfully submitted that the previously filed Reissue Declaration satisfies this requirement.

It is noted that as presently amended, all applications being relied upon under 35 USC 120 in the above-identified reissue application are applications that were relied upon under 35 USC 120 in the application issuing as U.S. Patent No. 6,332,280. Note also 37 CFR 1.63(d). As can be appreciated, in the application issuing as U.S. Patent No. 6,332,280, the Declaration filed therein did not provide a listing of applications being relied upon under 35 USC 120. Similarly herein, it is respectfully submitted that the Reissue Declaration need not set forth therein a listing of the prior applications being relied upon under 35 USC 120.

The quoted material in the second paragraph on page 2 of the Office Action mailed March 19, 2007, refers to subject matter of claims in the present application not disclosed in the prior United States application in a manner provided by the first paragraph of 35 USC 112. However, noting that the above-identified application is a Reissue application, all subject matter claimed therein must be disclosed in the prior application issuing as U.S. Patent No. 6,332,280. Accordingly, it is respectfully

submitted that such quoted material is not relevant with respect to Reissue

Declarations.

In view of all of the foregoing, and in light of amendment of the first page of the specification of the above-identified reissue application to delete recitation of Application No. 09/766,587, reconsideration and allowance of all claims in the application are respectfully requested.

To the extent necessary, Applicants hereby petition for an extension of time under 37 CFR 1.136. Kindly charge any shortage of fees due in connection with the filing of this paper, including any extension of time fees, to the Deposit Account of Antonelli, Terry, Stout & Kraus, LLP, Account No. 01-2135 (case 520.30414R49), and please credit any overpayments to such Deposit Account.

Respectfully submitted,

ANTONELLI, TERRY, STOUT & KRAUS, LLP

By /William I. Solomon/
William I. Solomon
Registration No. 28,565

WIS/ksh
1300 N. 17th Street, Suite 1800
Arlington, Virginia 22209
Tel: 703-312-6600
Fax: 703-312-6666